

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

EFSTRATIOS HADJIKONSTANTINOU,

Plaintiff,

v.

Case No. 2:10-cv-00002

JUDGE GREGORY L. FROST

Magistrate Judge Mark R. Abel

**CREDIT BUREAU COLLECTION
SERVICES, INC.,**

Defendant.

ORDER

This matter is before the Court upon the filing of Plaintiff's April 30, 2010 Notice of Voluntary Dismissal. (Doc. # 12.) The document states that it is a dismissal with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A). Such a statement ignores that a notice of voluntary dismissal under Rule 41(a) is effective only if filed prior to a defendant's answer, Fed. R. Civ. P. 41(a)(1)(A)(i), or if a stipulation of dismissal is signed by all of the parties that have appeared in the action, Fed. R. Civ. P. 41(a)(1)(A)(ii). Because neither set of circumstances is present in this case, Plaintiff cannot dismiss the action via filing of a simple notice as attempted here.

Rule 41(a)(2) provides for the filing of a motion for dismissal and the issuance of a court order. Given that it is apparent what Plaintiff attempted to accomplish with the April 30, 2010 filing, this Court construes the notice as a Rule 41(a)(2) motion and **GRANTS** the same. The case is dismissed with prejudice as Plaintiff has requested. The Clerk shall enter judgment

accordingly and terminate this case upon the docket records of the United States District Court for the Southern District of Ohio, Eastern Division, at Columbus.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE